

**DECLARATION OF DAVID EARLE**

I, David Earle, hereby declare as follows:

1. I was the Vice President/General Manager of television station WTZA(TV), Kingston, New York, until December 16, 1993.

2. WTZA is a UHF independent television station operating on Channel 62, licensed to Kingston, New York. WTZA has built a significant viewership in Kingston and surrounding areas. For instance, out of 35 measured signals in Dutchess County (which include New York City and Albany broadcast stations as well as cable-only channels), WTZA is the sixth most widely viewed. In Dutchess County as well as Columbia County and Greene County, WTZA has a larger net weekly circulation than any cable-only channel. Further, WTZA has a larger net weekly circulation than all but one cable-only channel in Orange County (exceeded only by the USA Network) and Ulster County (exceeded only by CNN).

3. WTZA's success in the New York television market has been hindered by its inability to gain cable carriage in most parts of that market. WTZA signed on the air in the wake of the courts' invalidation of the Commission's prior must carry rules. At that point, WTZA was a brand-new UHF independent with no cable carriage, no history, and, at least for the first few ratings periods, no measurable viewership. It was in that environment that WTZA was forced to begin gaining recognition among cable operators in a heavily cabled area.

4. WTZA spent countless hours in its first year courting local cable operators, showing tapes of its local newscasts, and trying to persuade cable operators that WTZA was a legitimate and

permanent operation. After some three years, those efforts bore some fruit: WTZA was able to obtain nearly universal coverage within its 35-mile copyright-free zone, which comprises approximately 260,000 cable homes. This success was only partial, however, for WTZA's largest potential audiences lay to the north and south of the station's immediate service area. In those communities, WTZA ran into a wall of indifference from cable operators. The station's requests for carriage were consistently denied by these operators, who asserted -- wrongly -- that other broadcasters offered similar programming, that their systems did not have enough channels to carry WTZA, and that no interest existed in their areas for news and information from the central Hudson Valley.

5. WTZA's inability to attain cable carriage in these crucial surrounding areas has had -- and continues to have -- a profound effect on the station's economic performance. First, it has limited WTZA's selling area to about 350,000 homes. Second, denial of cable carriage has limited the station's viewing primarily to fringe ADI areas where Arbitron and Nielsen diary samples are thin. This has diminished WTZA's ratings. Third, denial of cable carriage in crucial outlying areas has reduced the station's cumulative audience, resulting in a direct negative impact on WTZA's advertising rates. Finally, denial of cable carriage has prevented WTZA from selling effective coverage to key advertisers in southern Dutchess and Orange Counties (the station's two most important "core" service areas). This is because WTZA is unable to deliver important cable viewers in

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to deliver important cable viewers in Westchester and Rockland Counties just to the south of these critical counties, or viewers to the east along the Route 84 corridor in Danbury, Connecticut.

6. Because of its past inability to acquire cable carriage in important surrounding areas, WTZA has literally hit a "brick wall" of competitive viability. While the station has earned a strong following in a considerable area, it has been denied the ability to gain recognition in the additional areas it needs to become a true player in the heavily competitive New York television market. Simply put, after doing all that it possibly can do, WTZA still is forced to exist as a fragile UHF independent, competing at a severe disadvantage against other market stations with widespread cable carriage. As a result, WTZA has accumulated significant losses since signing on and has never shown an annual operating profit.

I declare under penalty of perjury that the foregoing facts are true and correct.

Date:

Dec 18<sup>th</sup> 1993David Earle  
David Earle

**EXHIBIT C**

DECLARATION OF RICHARD FRENCH, JR.

I, Richard French, Jr., hereby declare as follows:

1. I am the President of New Mass Media, Inc., the General Partner of WTZA-TV Associates Limited Partnership. That partnership is now the licensee of WTZA(TV), Kingston, New York ("WTZA").

2. The adoption of the 1992 Cable Act has presented WTZA with an exciting opportunity. Afforded mandatory carriage rights throughout the New York ADI, WTZA will be able to reach critical large audiences that it previously has been denied. This new-found ability to compete will permit the station to increase its advertising revenue, thereby enabling it to continue its historical emphasis on news. Indeed, the Cable Act has presented WTZA an opportunity to inaugurate programming plans for the station's viewers which will make WTZA even more deserving of carriage throughout the New York television market: on January 10, 1994 WTZA will expand into an all news and information station -- a station modeled on the "newswheel" format of CNN "Headline News," with local New York market orientation.

3. In conjunction with its new format, WTZA plans to add news bureaus in Westchester and Rockland counties in New York, and in Danbury and Stamford, Connecticut. Thereafter, WTZA plans to add additional news bureaus, in stages, in Bergen County, New Jersey and perhaps in New York City. WTZA also has plans to make use of a translator which will serve to extend its 64 dBu quality signal deep into areas covered by the large New York City stations' Grade B zones. If it can take advantage of its must

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carry rights, WTZA will evolve from a struggling UHF independent to a full-fledged market competitor in the full New York market, offering valuable news and information garnered from, and presented to, areas that the station has never before reached by cable.

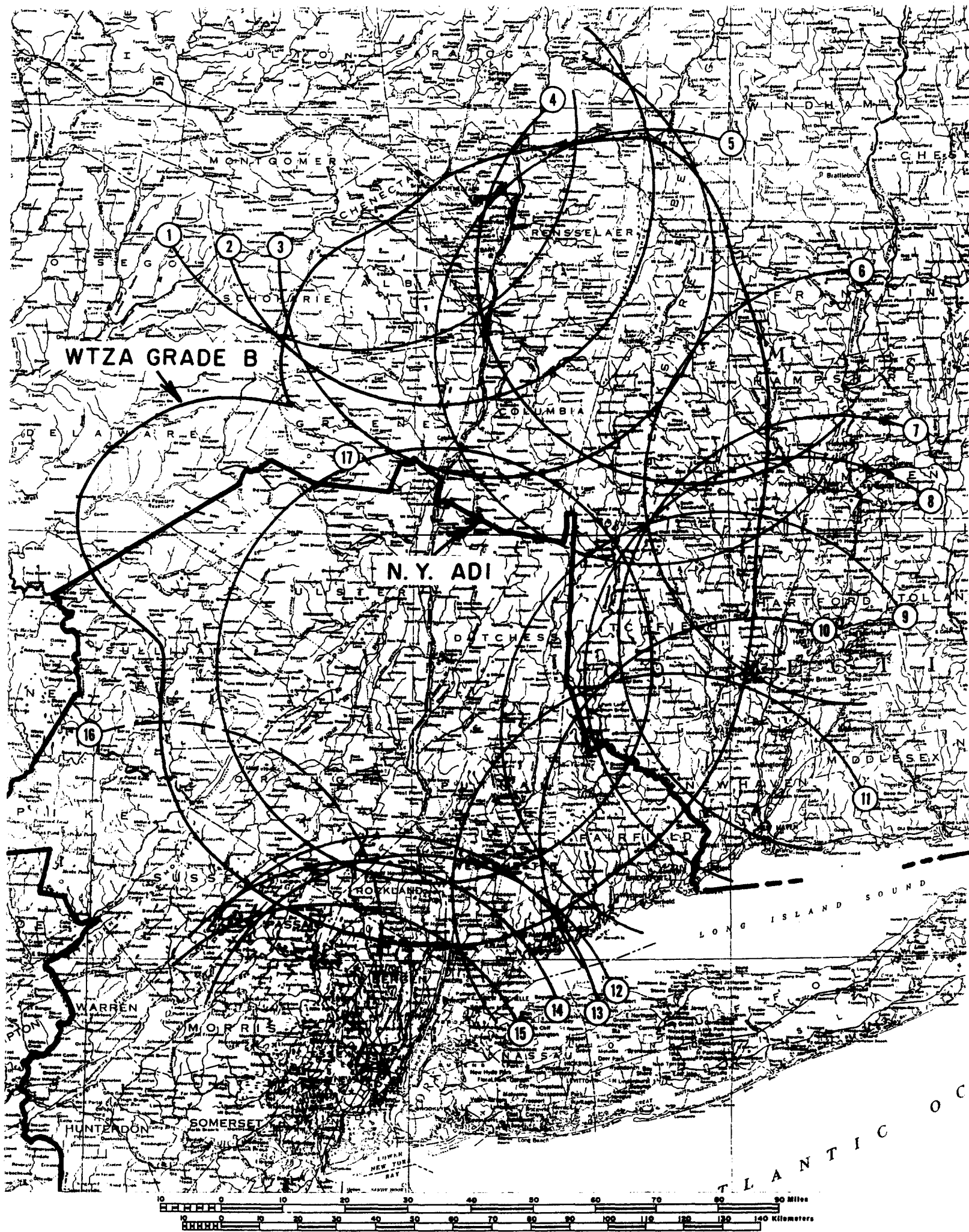
4. The need to indemnify cable operators for copyright royalty for "distant" carriage, however, presents a grave threat to WTZA's plans. Cable systems have contended that WTZA is a "distant" or "partially distant" signal, the carriage of which causes increased copyright liability within the New York television market but beyond a 35-mile zone surrounding Kingston. Indeed, we estimate that the payments for carriage of WTZA in the New York television market would be over \$5.0 million dollars per six-month period. Although WTZA has taken steps to obtain secondary retransmission rights from the owners of all its programming, thus eliminating any need for New York ADI cable systems to pay distant-signal royalties, it is not certain whether the cable systems will nonetheless contend that they are entitled to indemnity payments. And because it is not economically feasible for WTZA to pay such fees, there is a serious threat that the station will not be able to gain carriage on cable systems in substantial portions of the New York ADI.

I declare under penalty of perjury that the foregoing facts are true and correct.

Date: 12-17-93

  
Richard French, Jr.

**EXHIBIT D**



**CERTIFICATE OF SERVICE**

I, Julia L. Colish, hereby certify that I have this 20th day of December, 1993, mailed by first class United States mail, postage prepaid, copies of the foregoing "COMMENTS OF WTZA IN SUPPORT OF INCLUSION OF KINGSTON AS A DESIGNATED COMMUNITY" to the following:

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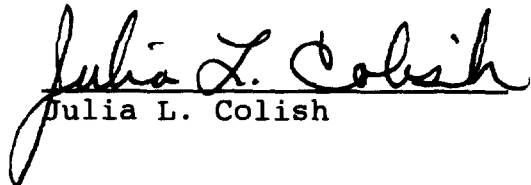
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\*Hand Delivered

  
Julia L. Colish